

The opinion in support of the decision being entered today is not binding
precedent of the Board.

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Paper 41

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DOW CHEMICAL COMPANY

Junior Party,
(U.S. Patent 5,527,929¹)

v.

BASELL POLYOLEFINE GmbH

Senior Party.
(Application 09/851,643²)

Patent Interference 105,250

Before: HANLON, TORCZON, and MOORE, Administrative Patent Judges.

HANLON, Administrative Patent Judge.

JUDGMENT – MERITS – BD.R. 127(a)

¹ The inventors of U.S. Patent 5,527,929 are Francis J. Timmers and David D. Devore. Paper 24 at 1.

² The inventors of Application 09/851,643 are Gerhard Erker, Bodo Temme, Michael Aulbach, Bernd Bachmann, and Frank Kubler. Paper 24 at 2.

Pursuant to the “DECISION – PRIORITY – BD.R. 125(a)” issued herewith, it is hereby
ORDERED that judgment on the issue of priority is entered in favor of the Senior
Party and against the Junior Party as to Count 1, the sole count, and it is

FURTHER ORDERED that the Junior party is not entitled to a patent containing
claims 1 through 3 of U.S. Patent 5,527,929, which are designated as corresponding to the count;
and it is

FURTHER ORDERED that the parties shall direct attention to 35 U.S.C. § 135(c)
and 37 CFR § 41.205(a) regarding the filing of settlement agreements.

)	
<u>/ss/ Adriene Lepiane Hanlon</u>)	
ADRIENE LEPIANE HANLON)	
Administrative Patent Judge)	
)	
)	BOARD OF PATENT
<u>/ss/ Richard Torczon</u>)	APPEALS AND
RICHARD TORCZON)	INTERFERENCES
Administrative Patent Judge)	
)	
)	
<u>/ss/ James T. Moore</u>)	
JAMES T. MOORE)	
Administrative Patent Judge)	

ALH/alh

cc (via electronic mail):

For Dow Chemical Co.: **Douglas N. Deline**, DOW CHEMICAL COMPANY of Midland, Michigan, with **Aaron Barlow** and **Shehla F. Syed**, JENNER & BLOCK LLP of Chicago, Illinois.

For Basell Polyolefine GmbH: **Ashley I. Pezzner** and **Rudolf E. Hutz**, CONNOLLY, BOVE & HUTZ LLP of Wilmington, Delaware.